

M. TERESA DALEY LAW OFFICES, P.C.

520 Eighth Avenue, 24th Floor
New York, New York 10018
Phone: 212-560-3943 Fax: 917-351-0983
e-mail address: alawrence@newmarkkf.com

M. Teresa Daley

Andrea J. Lawrence
Of Counsel

November 8, 2010

Via e-mail at
scc.chambers@nysb.uscourts.gov

Honorable Shelley C. Chapman
United States Bankruptcy Court
Southern District of New York
One Bowling Green – Courtroom 610
New York, New York 10004

Re: In re 2626 BWAY LLC
Docket No.: 10-14731 (SCC)

Dear Judge Chapman:

We represent Broadway Metro Associates, L.P. (“Broadway Metro”), a creditor of the Debtor as well as its landlord at the building located at 2626 Broadway, New York, New York. On November 3, 2010, Broadway Metro inspected the building together with its engineer, Stelco Restoration and Technology Corp. (“Stelco”). Although the parties neither requested nor exchanged expert reports, we are annexing the report prepared by Stelco dated today, which reflects the current condition of the Building as a result of the November 3, 2010 site inspection. We believe that this report is relevant to the hearing tomorrow on the motion to vacate the automatic stay, as it bears upon the Debtor’s ability to adequately protect the building at issue herein.

Respectfully,



Andrea J. Lawrence, Esq.

cc: Robert Sasloff, Esq. (via email)
M. Teresa Daley, Esq.



STELCO RESTORATION AND TECHNOLOGY CORP • 171 MADISON AVENUE • SUITE 1107 • NEW YORK, NY 10016
TEL: 212.683.9404/05 • FAX: 212.683.9580 • E-MAIL: STELCOCORP@VERIZON.NET

November 8, 2010

2626 Broadway LLC
c/o Ms. Teresa Daley, Esq.
520 Eighth Avenue - 24th Floor
New York, New York 10018

Re: Historic Metro Theatre
Alteration Condition Report
2626 Broadway
New York, New York
Block: 1871 Lot: 22

Dear Ms. Daley:

Pursuant to your request of October 27, 2010, STELCO Restoration and Technology Corp. has prepared and issued this updated report pertaining to the status and condition of the property. This report has been based upon our 5 (five) year history and knowledge of this Landmarked building and has been based upon the recent November 3, 2010 site visit and review of the property. The review of the property included the accessible and visible exterior facades and the readily visible and accessible interior areas. The site visit was performed by Mr. David Keane, P.E., who is this office's associate Structural Engineer, and the undersigned Architect and Mr. Joseph Massaro of this office. The intent of the described November site visit, as well as the previously documented site visits, was to prepare the requested narrative in preparation of the tentatively scheduled Tuesday, November 9, 2010 court date.

As a prelude to the STELCO narrative, it is believed to be necessary for the reader to be given a brief history of the property. This NYC Landmarked masonry bearing wall and ornate terra cotta facade and decorative metal marquee building was originally erected in approximately 1931 in the ornate 1930's "Art Deco" style, and has been used as a "single use" theatre for most of its life. In essence, this structure or property, for all intents and purposes, remained unchanged until it underwent a substantial interior alteration in approximately 1986 when, at that time, it was converted to a duplex theatre. This interior alteration did not have any negative effect on the structure, the interior area, or the exterior facade of the property. Subsequent to this duplex conversion, there wasn't any work or alteration of any consequence performed until the current work commenced in approximately 2007 or 2008. This current work and most significant damage or deterioration is the primary focus of this report.

The undersigned had previously made a series of site visits during 2005 and 2006 as a prerequisite for any of the (then to be) scheduled alteration work. These site visits did not result in the documentation or discovery of any unusual or unwarranted facade, masonry, or structural deterioration or destabilization. At this juncture of the building's history, all of the described components, except for the deteriorated roof, were considered normal and adequate for their age and stage. However, due to the results of the recently observed partially performed work, which has been primarily demolition and removals, it has become apparent to this office, that this previous adequate condition is no longer the situation. In fact, the recent April and

Historic Metro Theatre
Alteration Condition Report
2626 Broadway
New York, New York
11/8/2010, Page 2

November reviews and documentation have resulted in the finding and documentation of potentially hazardous, hazardous, and unsafe conditions.

Statement is to be made that the partially performed demolition work has not been performed in accord with the Contract/DOB Documents. These documents were apparently professionally prepared and filed by the New York State P.E., Rodney D. Cibble (? illegible) with the New York City Department of Buildings and Approved for a Permit on 12/22/07. In conjunction with this application the tentative General Construction Application was professionally prepared and filed by the New York State Architect, Christopher Cardavino (? illegible) with the New York City Department of Buildings and Approved for a Permit on 3/5/08. The reader is advised that there were other applications prepared and filed by other Licensed Architects and Engineers, including the STELCO prepared, filed, and approved initial 2006 New York City Landmarks Preservation Commission and Department of Buildings Alteration Applications. The primary intent and concern of this report is to review the findings of the November 3, 2010 site visit and documentation and to categorize them as to their seriousness and order of priority for repair or completion. The reader should be cognizant to the fact that the current work status of the partially demolished interior of the property, which was performed and purportedly filed for by others, is that both structural and non-structural damage, deterioration, and destabilization has been unwarrantedly caused by the work and obvious neglect to the building by the current tenant and the(ir) contractor(s). The same may be said for the architectural features of the building. Specifically, please be advised of the description and commentary pertaining to the unwarranted deterioration and damage as follows:

Part A - Exterior Component Findings:

1. Observations and Conditions, Priority 1, Precautionary, Potentially Hazardous and Non Watertight. The currently existing Landmarked ornate art deco terra cotta facade exhibited recent and unwarranted joint failure, glaze peeling, exposed substrata, voids, cracks, and similar defects. The decorative base has exhibited displacement, as have several upper panels, above the marquee lines or angled steel support cables and turn buckle. Also evident was that the marquee steel cable angles supported cables have not been structurally repaired as directed. Previously, these cables and the "eye" attachment to the interior framing exhibited section loss and deterioration. Also evident was that there was indication of slight bulging of the decorative terra cotta panel work along the plane of the support cables.

a. Suggested Repairs - The initially suggested rehabilitation work will require not only the obvious cutting and pointing of the art deco facade, but it will also be necessary to remove, investigate, and replicate the Art Deco panels at and about the steel cable marquee supports. Proper probes and investigation are mandatory for safety. Also required will be the replacement or replication of assorted general facade and lower base components due to crackage, deterioration, and lack of maintenance. Several panels will also require re-glazing and patching with LPC approved materials. It will be required to properly inspect the facade from close up to determine the true condition of the facade.

b. Approximate Repair Cost - It is projected that the described damage and potential amelioration will require a minimum of \$107,000. to ameliorate, and this is subject to available access methods and to field conditions.

Historic Metro Theatre
Alteration Condition Report
2626 Broadway
New York, New York
11/8/2010, Page 3

2. Observations and Conditions, Priority 1, Potentially Hazardous or Unsafe. The currently existing Landmarked steel frame and metal clad theatre marquee has been destabilized and damaged by the partially performed work. It was readily visible that this Landmark element is not stable as it presently exists without the temporary shoring posts that were installed under the steel support frame. This shoring has not been completed, fireproofed, or protected as required and specified. In order to attempt to stabilize this element, coordination of this condition with the opposing mezzanine load must be performed. The historic metal panels at the soffit (ceiling) have all but been destroyed and/or significantly damaged, the steel frame has exhibited rust and deterioration, and the roofing system and flashing have been compromised. In essence, the structural steel framing, building connections, and decorative features have been, in part, severely compromised by the current work and lack of the completion of the specified work.

a. Suggested Repairs - The initially suggested amelioration work will require the partial removal and limited replacement of the historic fascias, and a general replacement of the soffit panels and a complete roofing and flashing system. Also anticipated would be structural repairs including possibly the stiffening of the two structural load bearing columns supporting, in part, the marquee. More significantly, the amelioration work must be coordinated with and is part of the work described in Item 1 above. As with the other described items, the marquee will require careful study and engineering to properly cure the damage and re-stabilize the marquee without, repeat without, the temporary and incomplete shoring.

b. Approximate Repair Cost - It is projected that the described damage and suggested amelioration will require \$85,000. to ameliorate, depending upon the available access methods and field conditions.

3. Observations and Conditions, Priority 2, Precautionary. The flanking load bearing common brick masonry walls are structural elements, which require cutting and pointing, particularly at the upper parapet areas. The vertical masonry walls are understood to be "braced" or stiffened by the masonry brick piers or buttresses. These supporting elements are intermittently located along each bearing wall. Previous probes did not result in the finding of steel columns. These piers and wall supports the steel framing for the wood roof structure. There was some evidence of horizontal cracking along the mid points of the walls and at the piers. This is likely due to water infiltration and destabilization. The contiguous brick parapet walls have been previously reviewed and were found to be generally in poor condition, structurally deficient, and non watertight. Other conditions exist relative to these components, and will be commented on elsewhere in this report. These facades will have to be examined from close up.

a. Suggested Repairs - The initially suggested amelioration work, as related solely to the facade will require a cutting, pointing, and localized brick replacement project, as well as parapet wall replacement work. The extent thereof will have to be verified from close up.

b. Approximate Repair Cost - It is projected that the described deterioration and damage will require a minimum of \$75,000. to ameliorate, and is also subject to available access methods and to field conditions.

4. Subtotal items A.1. - A.3. \$267,000.

Historic Metro Theatre
Alteration Condition Report
2626 Broadway
New York, New York
11/8/2010, Page 4

Part B - Building Structural Component Findings:

1. Observations and Conditions, Priority 1, Potentially Hazardous. The field and permitted structural demolition documents do not illustrate, indicate, or refer to the previously removed stadia seating at the mezzanine level. This work was apparently performed prior to the DOB Permitting of the current application. The current demolition documentation does not refer to or require any stabilization of the north, south, or east masonry perimeter bearing walls. These 40-foot plus high walls were formerly braced by the now removed stadia seating and stage framing. This demolition and removal was apparently without any precaution of installing temporary lateral bracing and shoring at the side walls and at the stage floor opening. As a result, the north and south full height masonry bearing walls exhibited signs of buckling and displacement at the third points of their height. These locations are at the lines of the previously existing original and altered lateral framing. The masonry structure has likely been compromised and damaged by the work performed.

a. Suggested Repairs - The initially suggested amelioration work will require substantial temporary, if not permanent, shoring and bracing, re-bricking, column installation, etc. to attempt to stabilize the two north and south bearing walls. This work is mandatory prior to any future alteration work of any type in order to avoid any type of situation real or unreal.

b. Approximate Repair Cost - It is projected that the described damage will require a minimum of \$145,000. to ameliorate, and is subject to available access methods and field conditions.

2. Observations and Conditions, Priority 1, Potentially Hazardous and Unsafe. The previously existing and partially removed mezzanine level steel framing and concrete floor slab has been partially removed (apparently) without any regard to the counter balance of the ornate metal clad Landmarked theatre marquee. As a result of this partially removed structural work, the marquee may have shifted, as evident by the variable width gap at the marquee and facade intersection. Additionally, the second group of structural shoring supports has not been installed. In other words, the marquee shoring had only been partially performed. Specifically, the additional columns, temporary protection, and fireproofing was not evident at the "temporary shoring" row at the underside of the marquee. It was also evident that a problem likely exists as a result of the suspected displacement and apparent bending stress of the structural steel column connection and reinforcements for the steel plate tension rods, which support, as a counter balance, the remaining mezzanine level weight and the opposing steel guyline tension supports or rods and turn buckles, which similarly support, as a primary support, the existing decorative theatre marquee. The proper amelioration of these precarious structural conditions is an absolute necessity to a safe structure and building and must be performed prudently prior to the continuation of the interior alteration. The steel and concrete structure has been compromised by the work performed. Additionally, the work is directly over the NYCTA tunnel/station. It is important to verify, due to litigious reasons, if NYCTA Approval was granted.

a. Suggested Repairs - The initially suggested amelioration work will require careful analysis and documentation of the existing conditions, reinforcement of the steel column and connections, reinforcement and repairs of the marquee framing to the building front walls and structural elements, and the resolution to the contradicting mezzanine and marquee masses or weights. This is critical for safety reasons and is not an easy situation to rectify.

Historic Metro Theatre
Alteration Condition Report
2626 Broadway
New York, New York
11/8/2010, Page 5

b. Approximate Repair Cost - It is projected that the described damage and potential amelioration will require a minimum of \$105,000. to ameliorate, and is subject to field conditions.

3. Observations and Conditions, Priority 2, Precautionary and Non Watertight. The existing roof system has been previously documented and currently observed to be non watertight. Ongoing seepage was observed at the intermediate roof penetrations and along the perimeter of the masonry bearing walls and parapets. (The reader should cross reference item B.1 commentary for additional information.) Observations confirmed that the 3 x 10 wood rafters had also exhibited dry rot from ongoing and continued water infiltration and saturation. This condition varies in degree from moderate to significant, and was prevalent throughout the perimeter of the building. Close up documentation will be required to verify the extent of damage and deterioration.

a. Suggested Repairs - The initially suggested amelioration work will require a combination of partial end replacements ("sistering") and full rafter replacements. It will be required to examine the roof framing from close up to determine the extent of neglect, damage, and deterioration. Careful attention must be addressed to strengthening the roof structure from its decayed condition.

b. Approximate Repair Cost - It is projected that the described damage and the likely amelioration work will require a minimum of \$65,000. to ameliorate, depending upon the available access methods and to field conditions.

4. Subtotal items B.1. - B.3. \$315,000.

Part C - Building Systems and Component Findings:

1. Observations and Conditions, Priority 1, Unsafe and Hazardous. The existing interior of the building is construed, by Code definition and by physical stage of disrepair and abandonment, to be non-occupiable, but still subject to NYC Administrative Code Compliance. However, even with this fact stated, there has not been any of the required provisions made for fire control, fire department access, standpipe usage, or any type of emergency lighting or alarm system. Penetrations exist in the remaining concrete slab, but there are no warning devices, or controls to avoid injury or death in the event of any emergency.

a. Suggested Repairs - The initially suggested amelioration work will require, due to the possibility of an emergency, fire, damage, etc., that some type of temporary electrical lighting, power, and emergency lighting be provided by Code. Specifically, the building is being "altered", not demolished. This includes that which was described in item B.1.a. above. Proper and prudent signage, fire control, emergency lighting, etc. is mandatory. This project is likely subject to OSHA jurisdiction. The extent of work need not be elaborate, just as required by Code for life safety compliance.

b. Approximate Repair Cost - It is projected that the described Code Violations and Hazardous Conditions will require \$45,000. to ameliorate, depending upon accessibility and field conditions.

Historic Metro Theatre
Alteration Condition Report
2626 Broadway
New York, New York
11/8/2010, Page 6

2. Observations and Conditions, Priority 2, Precautionary. The existing building interior is, as stated above, uninhabitable, or non-occupiable in its present condition and stage of disrepair and abandonment. Nonetheless, since this work is legally to be an alteration of its previously "existing" space and not a demolition, it is necessary to have at least the basic utilities, including water, lighting, and power. Heat may be provided by environmentally (DEP) approved non-gaseous heating units. These utilities are necessary to continue the alteration work for the most obvious of reasons, that is to perform masonry, concrete, carpentry, finish and other work requiring tools, mixers, and preparation sequences.

a. Suggested Repairs - The initially suggested amelioration work will require that the utility companies be contacted and that water and electric be provided. The latter will require a temporary electrical panel with proper circuit breakers, distribution, etc. Water service(s) may also be temporary and as required by the work scope.

b. Approximate Repair Cost - It is projected that the described temporary services and their likely installation work will require \$20,000. to complete, depending upon accessibility and field conditions.

3. Subtotal items C.1. - C.2. \$65,000.

Part D - Approximate Budget for Observed Conditions:

1.	Part A - Exterior Component Findings:	\$267,000.
2.	Part B - Building Structural Component Findings:	\$315,000.
3.	Part C - Building Systems and Component Findings:	<u>\$65,000.</u>
4.	Subtotal:	\$647,000.
5.	Contingency:	<u>\$64,700.</u>
6.	Total:	\$711,700.00

The reader is advised that it has been previously stated and is herewith repeated and expounded upon that these primary unwarranted and damaged conditions were believed to be the primary concern for the safety of the public and continued longevity of the building during any forthcoming reconstruction or continued alteration of this Landmarked property. The reader should be cognizant to the fact that there are conditions present that if left unameliorated, could cause catastrophic damage and liability. In essence, work is necessary and should be, as the prudent approach, performed at this time. It is stated that there were other conditions visible at the time of the inspection that are presently construed as relatively minor, but requiring amelioration as part of the required work scope of this current and any future project. These conditions are as follows:

1. The metal grating at the front requires replacement for Compliance to Code (concealed hinges) and stability.
2. The west stadia seating was removed previously. Professionally prepared documents should be submitted as a matter of record.
3. The Approved Demolition Documents specified a certain phasing (demolition and removal) of the work. This has obviously not been followed. Explanation (Certified) should be given as a matter of record.

Historic Metro Theatre
Alteration Condition Report
2626 Broadway
New York, New York
11/8/2010, Page 7

4. The building has been left "vacant" and without any type of heat to prevent the negative effects of the water infiltration and of the freeze-thaw cycle.

5. The waterproofing and structural integrity of the oil tank vault ceiling or roof is not known. It should be verified and replaced, if required.

6. All interior finishes had been removed leaving the brick exposed to dust, dirt, and humidity accumulation and damage.

7. The building evidently has been neglected for several years. Moderate evidence of water infiltration was noted. Leaks should be fixed to prevent potential deterioration to the main structure. Left as is, masonry, steel, and concrete will continue to deteriorate, eventually becoming structurally deficient.

8. The marquee is clad with metal paneling. Water ponding was noted on the roof of the marquee. Rain water was dripping through the cladding and recessed light fixtures. The structure should be fully exposed to determine the extent of rusting/deterioration due to long-term water infiltration.

9. The marquee backspan support column and straps supporting the mezzanine are exposed as noted. There is no fireproofing on the exposed steel. Fireproofing must be maintained by NYC Building Code requirements.

10. Some spalling and cracking of the concrete floors and beam encasements was noted in the cellar ceiling. In general however, the steel and concrete floor framing appeared to be in reasonable condition, except for miscellaneous cracking, which should be patched.

11. Roof and parapets were previously inspected. They are deteriorated and should be replaced and/or rehabilitated.

12. The stage structure has been removed. This has left the east wall of the building un-braced from cellar to roof structure. Given that the cellar floor is lower than the exterior grade outside this wall, there is a passive pressure surcharge acting on the east wall. This east wall should be sufficiently braced back to first floor framing, as it previously was. In general, any framing that has been removed (ie. the balcony framing) should be replaced as it may have been bracing walls and/or columns.

13. Steel gratings over the north and south areaways are deteriorated and loose. Framing and grating should be repaired or replaced.

14. Evidence of previous exploratory probes in the exterior masonry walls were observed. These probes were left open and not filled in. Probes should be filled in particularly at pier/buttress locations.

In closing, it should be apparent to the reader that the extent of demolition work that occurred at the property and the lack of proper maintenance or concern for the property's well being has been directly responsible for the observed and documented inadequate, deteriorated, and damaged conditions. It is also noted that the building and the described components have, in some instances, deteriorated since the June 9, 2010 site review and report.

Historic Metro Theatre
Alteration Condition Report
2626 Broadway
New York, New York
11/8/2010, Page 8

Should the reader have any questions pertaining to this matter, or require any additional information, please do not hesitate to contact the undersigned accordingly.

Respectfully submitted,



Stephen L. Cohan, VP
STELCO Restoration and Technology Corp.
SLC/nje/ljc

cc: file

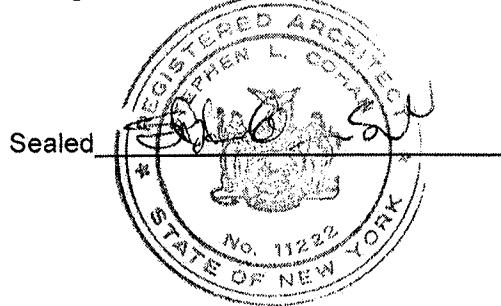
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attachment: none

issuance: as noted below

Participant/Company

T. Daley/M. Teresa Daley Law Offices
A. Bialek/2626 Broadway LLC
D. Keane/David Keane PE, P.C.



E-Mail Address	Method
tdaley@newmarkkf.com	e-mail
sagaline@msn.com	e-mail
dkeanepe@gmail.com	e-mail